IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1168 of 2005

To

FIRST APPEAL No. 1178 of 2005

with

FIRST APPEAL No. 1203 of 2005

To

FIRST APPEAL No. 1219 of 2005

For Approval and Signature:

THE HON'BLE MR.JUSTICE B.J.SHETHNA
THE HON'BLE MR.JUSTICE M.C.PATEL

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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SPL.LAQ OFFICER – Appellant (s)

Versus

BADARSANG PARBATSANG &2 - Respondent(s)

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Appearance :

MR SIRAJ GORI, AGP for Appellant No(s).: 1.

MR AJ PATEL for Respondent No(s).: 1,2.

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CORAM :THE HON'BLE MR.JUSTICE B.J.SHETHNA and

THEHON'BLE MR.JUSTICE M.C.PATEL

Date : 15/06/2005

COMMON ORAL JUDGMENT (Per : THE HON'BLE MR.JUSTICE B.J.SHETHNA)

Admit. Mr. A.J. Patel appears and waives service for the respondents – claimants in all these appeals.

2. All these appeals are disposed of by this common order as a common question is involved in all these matters.

3. Land Acquisition Reference Nos.573 to 583 of 1997 were allowed by the learned Extra Assistant Judge, Mehsana by his impugned common judgment and award dated 9th August, 2002 whereby the Reference Court held that each claimant is entitled to claim compensation at the rate of Rs.20/- per sq. mtr. for their lands acquired by the authority.

4. First Appeal No.1168 to 1178 of 2005 are filed by the appellant – Special Land Acquisition Officer against the impugned common judgment and order dated 9th August, 2002 passed by the learned Extra Assistant Judge, Mehsana in Land Acquisition Reference Nos.573 to 583 of 1997.

4.1 Land Acquisition Reference Nos.632 to 648 of 2000 were allowed by the learned Extra Assistant Judge, Mehsana by his impugned common judgment and award dated 13th August, 2002 whereby the learned Judge awarded compensation at the rate of Rs.28/- per sq. mtr. to the claimants whose lands were acquired against which the appellant – Special Land Acquisition Officer has filed First Appeals No.1203 to 1219 of 2005.

5. Section 4 Notification was issued on 22nd June, 1993. The Special Land Acquisition Officer passed his award on 15thJune, 1996 and awarded only Rs.1.35 paise per sq. mtr. against the claim of the claimants at

Rs.20/- per sq. mtr. Aggrieved of the same, the claimants approached the Reference Court by way of Land Acquisition Reference Nos.573 to 583 of 1997. All the cases were consolidated and heard and decided by the learned Extra Assistant Judge, Mehsana by his impugned common judgment and award dated 9thAugust, 2002 whereby the learned Judge awarded additional sum of Rs. 18.65 paise per sq. mtr. to the claimants. Thus, in all, Rs.20/- per sq. mtr. was awarded. The same is challenged in First Appeal Nos.1168 to 1178 of 2005 by the Special Land Acquisition Officer.

6. Learned AGP Shri Gori for the appellant in all these appeals vehemently submitted that the learned Judge committed grave error in relying upon the ground that the value of the essential commodities is increasing day by day and that the court must take judicial notice of the fact that for the purpose of saving stamp duty, they show less price in the document. There is lot of substance in the submission made by learned AGP Mr. Gori that no court can take judicial notice of such things. If this was the only ground on which the learned Judge awarded Rs.20/- per sq. mtr., then this court would have certainly set aside the impugned award. However, that was not the only ground on which the learned Judge awarded Rs.20/- per sq. mtr. For awarding Rs.20/- per sq. mtr., the learned Judge has relied on the previous judgment of the court for adjoining village Becharaji where the land-owners were paid Rs.20/- per sq. mtr. The said judgment was challenged before this court in First Appeal No.1842 of 2000 but it was dismissed by this court. In that view of the matter, in our considered opinion, the learned Judge was absolutely right in awarding Rs.20/- per sq. mtr. However, Mr. Gori, learned AGP appearing for the appellant in all these cases vehemently submitted that the learned Judge committed grave error in relying on that judgment. He submitted that the land of Becharaji was at a long

distance. In support of his submission, he tried to place reliance on the map. However, we find from the order passed by the Reference Court that no such submission was made before the Trial Court. On peculiar facts of this case, we are of the considered opinion that no error was committed by the learned Judge. Even otherwise, the present land is fertile and it is not at distance from Becharaji. In that view of the matter, it cannot be said that the learned Judge committed any error while passing common judgment and award dated 9thAugust, 2002 awarding, in all, Rs.20/- per sq. mtr. It cannot be said to be exorbitant. Therefore, no interference is called for and all the appeals are liable to be dismissed.

6.1 This brings us to First Appeals No.1203 to 1219 of 2005. They arise out of the impugned common judgment and award dated 13thAugust, 2002 passed by the learned Extra Assistant Judge, Mehsana in Land Reference Nos.632 to 648 of 2000. In the instant case, the notification under Section 4 was issued on 27th September, 1996. Except this, there is no other difference. Applying multiplier of 10, the learned Judge awarded, in all, Rs.28/- per sq. mtr. to the land-owners of the present case. When the learned Judge has relied on the Supreme Court judgment for awarding Rs.28/- by applying multiplier of 10, then there is no question of interference.

7. In view of the above discussion, First Appeals No.1203 to 1219 of 2005 also fail and are hereby dismissed.

8. Accordingly, all these appeals are dismissed. However, there shall be no order as to costs.

(B.J. Shethna, J.)

(M.C. Patel, J.)

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